IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

SATURDAY, THE 1ST DECEMBER 2007 / 10TH AGRAHAYANA 1929

Crl.MC.No. 3610 of 2007()

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C.C.NO.664/2006 OF JFMC-I, PUNALUR

PETITIONER/2ND ACCUSED:
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HARISH, AGED 29 YEARS, S/O.KARUNAKARAN NAIR,
CHEROOR VEEDU, AGASTHYACODE,
ANCHAL, PRESENTLY WORKING AS 'HAVILDAR',
284 FIELD REGIMENT, C/O.56 A.P.O.

BY ADV. SRI.V.VENUGOPALAN NAIR

RESPONDENT/COMPLAINANTS:
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STATE OF KERALA REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 01/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**R.BASANT, J.**

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Crl.M.C.No.3610 of 2007

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Dated this the 1st day of December 2007

**O R D E R**

The petitioner, a serving soldier in the Indian Army has come before this court raising a grievance that his personal presence is being insisted by the learned Magistrate on 03/12/2007. He is not available here. He is serving with his unit. He is unable to appear on 3/12/2007.

2. The learned counsel for the petitioner submits that the personal presence of the petitioner is absolutely unnecessary for the further progress of the case. Unnecessary insistence on the personal personal of the petitioner would cause great prejudice, hardship and loss to the petitioner. In these circumstances, there may be a direction to the learned Magistrate not to insist on the personal presence of the petitioner on 3/12/2007, prays the learned counsel for the petitioner.

3. It is for the learned counsel for the petitioner to make necessary application before the learned Magistrate on 03/12/2007. The learned Magistrate must certainly consider the

request of the petitioner for exemption from personal appearance on 03/12/2007 and pass appropriate orders. I have no reason to assume that the learned Magistrate would insist unnecessarily on the personal presence of the petitioner if the progress of the case does not demand such personal presence.

4. I am of the opinion that it is not necessary for me to issue any further directions or observations. I am satisfied that this petition can be dismissed with the observation that the petitioner can appear through counsel on 03/12/2007 and explain to the learned Magistrate the circumstances under which he is unable to appear. Such application must be considered by the learned Magistrate on merits and realistically.

Hand over copy of this order to the learned counsel for the petitioner.

**(R.BASANT, JUDGE)**

jsr

**R.BASANT, J.**

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007